

REMARKS/ARGUMENTS

1. The Examiner rejected claims 1 – 3 and 5 – 8 under the provisions of 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter that is the invention. With respect to the amended claims now in the application, this rejection is respectfully traversed.

Amended claim 1 is directed toward an improvement in a bale wagon. Claims 2 – 3 and 6, which depend from claim 1 are directed to the improvement of claim 1. Claims 5 and 7 are cancelled without prejudice. Claim 8 is directed toward a method of unloading tiers of stacked bales from a loaded bale wagon wherein the bale wagon incorporates Applicant's invention enabling selective positioning of tine angles to alter the angle at which successive bale tiers are positioned in order to promote stability in the file bale stack.

Applicant believes that the amended claims address the Examiner's rejection and should now be in a condition for allowance. Withdrawal of the rejection is respectfully requested.

2. The Examiner rejected claims 1 – 3, 5, and 7 under the provisions of 35 U.S.C. 102(b) as being anticipated by Severeid (US 5,333,693 A). Insofar as this rejection might be applied to the claims now in the application, it is respectfully traversed.

In order to establish a *prima facie* case of anticipation, the Examiner must show that a single reference discloses or teaches each and every of the claimed elements arranged as in the claim, expressly or inherently, as interpreted by one of ordinary skill in the art.

Severeid discloses a tractor-mounted implement for removing stumps from the ground wherein the implement has forked assembly connected to an elongate portion of an articulated lever mechanism. The three individual tines of the forked assembly are slideably connected by a torque-resistant tubular sleeve to a transverse member of the elongate portion whereby each tine's transverse position may be adjusted laterally with respect to the tractor-implement combination, but the tine's rotational position is fixed relative to the transverse member. The

forked assembly as a whole is rotatable about a horizontal transverse axis to preselected positions to adjust the angle of ground penetration of the tines.

In contrast, Applicant's invention features a plurality of torque-resistant brackets affixed to a movable transverse crossbar of a bale wagon for connecting a plurality of tines in a torque-resistant manner wherein each bracket is transversely fixed in position on the movable transverse crossbar and each bracket enables the individual connected tine to be rotated about transverse pivot axis such that the angle between the tine and a load bed of the bale wagon may be varied among a series of pre-selected angles. Severeid lacks Applicant's plurality of transversely spaced brackets affixed to a crossbar that enable each individual tine to be pivoted to a pre-selected position; it cannot, therefore, be a proper anticipatory reference for the claims as amended.

Applicant believes that the amended claims address the Examiner's rejection and should be in a condition for allowance. Withdrawal of the rejection is respectfully requested.

3. Claim 6 was rejected under the provisions of 35 U.S.C. 103(a) as unpatentable over Severeid (US 5,333,693 A). Insofar as this rejection might be applied to the claims now in the application, it is respectfully traversed.

Claim 6 depends from Claim 1. As Applicant has shown above that that Claim 1 is allowable, claims depending therefrom are likewise in a condition for allowance. Withdrawal of the rejection is respectfully requested.

4. Claims 8 and 10 were rejected under the provisions of 35 U.S.C. 103(a) as unpatentable over Nulle (US 5,168,817 A) in view of Maclay (US 6,328,520 B1). Insofar as this rejection might be applied to the claims now in the application, it is respectfully traversed.

Establishing a *prima facie* case of obviousness requires the Examiner to show that there is a motivation suggested in the references themselves, or in knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings.

There must be a reasonable expectation of success for the modification or combination. Finally, the references must teach or suggest all of the claim limitations.

It is respectfully submitted that the Office Action does not establish a *prima facie* case of obviousness in light of the claim now in the application. Amended claim 8 claims a method for unloading tiers of stacked bales from a bale wagon, wherein at least two brackets are affixed to a movable crossbar on the bale wagon, each bracket having a plurality of openings for positioning each of the tines, respectively, to a selected tine tilt angle *with respect to the load bed*, setting the tines to a first tilt angle, unloading a first load of bales to lean at an angle corresponding to [a] the first tilt angle, setting the tines to a second tilt angle, and then, against said first load of bales, unloading a second load bales from the same wagon. Maclay does not disclose variation of the angle between the flat bed and the tines as a means to vary the angle of a bale stack since the tines rotate between horizontal and vertical in conjunction with the flat bed to which they are attached. Withdrawal of the rejection is respectfully requested.

5. In summary, claims 1 – 3, 5, 6 and 8 have been amended, and claims 7 and 10 have been cancelled in response to this action. Claims 1 – 3, 5, 6 and 8 remain in the application. Applicant submits that the claims as herein presented are in a condition for allowance, and timely and favorable notice to this effect is respectfully solicited. Applicant respectfully requests that all rejections be withdrawn and all remaining claims be allowed. No new matter has been added.

Application No. 10/817,255
Amendment dated July 11, 2007
Reply to Office Action of April 13, 2007
Attorney Docket 17210

Pursuant to currently recommended Patent Office practice, the Examiner is expressly authorized to call Applicant's attorney, if in her judgment disposition of this application could be expedited or if she considers the application ready for final disposition by other than allowance. Applicants' undersigned attorney may be reached at the phone and fax numbers listed below.

Respectfully submitted,



Andrew D. Mead
Attorney for Applicant(s)
Reg. No. 53,310
Date: July 11, 2007

(717) 656-3030 Phone
(717) 656-3330 Fax